

JUN 27 2006

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Group Art Unit: 2617

Examiner: Joseph G. Ustaris

UNITED STATES PATENT AND TRADEMARK
OFFICE

Phone: (571) 272-7383

Pages: Cover + 1 + 4 = 6

Date: June 27, 2006

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Georgann S. Grunebach, Reg. No. 33,179
(Printed Name of Depositor)June 27, 2006
(Date of Signature)Re: Serial No. 09/844,976
Filing Date: April 26, 2001

Attorney Docket No. PD-200352A

Please find attached:

- TRANSMITTAL FORM PTO/SB/21 (1 page)
- REPLY BRIEF (4 pages)

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**TRANSMITTAL
FORM**

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Total Number of Pages in This Submission

5

Application Number

09/844,976

Filing Date

04/26/2001

First Named Inventor

Erin H. Sibley

Art Unit

2623

Examiner Name

USTARIS, Joseph G.

Attorney Docket Number

PD-200352A

ENCLOSURES (Check all that apply)

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/
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under 37 CFR 1.52 or 1.53

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Petition

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of Appeals and InterferencesAppeal Communication to TC
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Proprietary Information



Status Letter

Other Enclosure(s) (please identify
below):**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

The DirectTV Group, Inc.

Signature

Printed name

Georgann S. Grunebach

Date

June 27, 2006

Reg. No.

33,179

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Date

June 27, 2006

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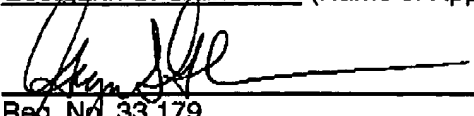
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Georgann S. Grunebach (Name of Applicant, Assignee or Registered Representative)

 (Signature) June 27, 2006 (Date of Signature)
Reg. No. 33,179

Customer Number 020991

PATENT
Docket No. PD-200352A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Erin H. Sibley

Serial No. 09/844,976

Group Art Unit: 2623

Filed: April 26, 2001

Examiner: Joseph G. Ustaris

For: DIGITAL OVER-THE-AIR COMMUNICATION SYSTEM FOR USE WITH
ANALOG TERRESTRIAL BROADCASTING SYSTEM

REPLY BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
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Sir:

In response to the Examiner's Answer mailed May 23, 2006, please enter the following remarks.

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On page 7 of the Answer, the Examiner provides new arguments for claims 2 and 10. The Examiner states:

"Appellant argues that a satellite is not a stratospheric platform. However, reading the claims in the broadest sense, the satellite disclosed by *Hendricks* is coupled with the cable headend nearby meeting the limitations of the claim. Furthermore, Appellants' specification does not disclose any examples of stratospheric platforms other than satellite. Therefore, satellite meets the limitation of 'stratospheric platform' wherein the satellite is a high altitude communications platform."

Appellants respectfully submit that a stratospheric platform is listed as one of the options for the over-the-air broadcast center. As is well known in the art, a stratospheric platform is not a satellite. Satellites are beyond the stratosphere. A stratospheric platform is not deployed anywhere near the height of even a low earth orbit satellite. A stratospheric platform may be deployed somewhere between 60,000-90,000 feet above the earth. Low orbit satellites, on the other hand, may orbit at around 150 kilometers above the earth. The Appellants take exception to the Examiner equating a stratospheric platform to a satellite. Satellites and stratospheric platforms are both provided as different examples in the detailed description of the present application. It should also be noted that a satellite is recited in claim 1 as well as a terrestrial over-the-air broadcast center. Thus, both a satellite and some other device are present. The Examiner appears to miss the fact that there are four elements in the claims. That is, claim 1 specifically recites a satellite, a network operation center, a terrestrial over-the-air broadcast center, and a user appliance. Appellant has carefully separated the satellite from the terrestrial over-the-air broadcast center. They are two different elements. Therefore, Appellant respectfully requests the Board to reconsider the Examiner's position with respect to claims 2 and 10 in view of the comments above.

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Appellant respectfully submits that a satellite is different than a stratospheric platform and, therefore, should be considered as such.

On page 7 of the Examiner's Answer, the Examiner with respect to claims 3 and 11 states that:

"Appellant argues that network controller/cable headend of *Hendricks* (see Fig. 1) is not a cell tower. However, *Hendricks* does disclose that the cable headend can be used with various other program delivery systems such as cellular networks, which inherently uses cellular towers (see *Hendricks* column 7, lines 29-34)."

Appellants admit that a cellular network is described on lines 29-34 of column 7. However, no teaching or suggestion is provided for a cellular tower therein. It should also be noted that the cellular tower of claim 3 is an example of an over-the-air broadcast center set forth in claim 1 (and claim 9 for claim 11). What is not described in *Hendricks* is that the over-the-air broadcast center or cell tower, in this case, generates digital over-the-air electronic content during a vertical blanking interval of an analog broadcast signal. Appellants, therefore, respectfully request the Board to reconsider the rejection of claims 3 and 11 in view of Appellant's comments above.

On page 7 of the Answer, the Examiner also sets forth new arguments with respect to claims 4 and 12. In his argument, the Examiner states: "Appellant argues that a TV broadcast tower is not shown."

The Examiner has taken official notice that TV broadcast towers are used as a transmission scheme. However, the *Hendricks* system is a replacement for a conventional broadcasting system. Even if TV broadcast towers are well known, TV broadcast towers that receive the electronic content from the satellite and generate digital over-the-air electronic content during their vertical blanking interval of an analog

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broadcast signal, is not taught or suggested in the art. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claims 4 and 12.

On page 8 of the Answer, the Examiner specifically addresses claim 8 and that the Appellant makes similar arguments with respect to claim 1. Claim 8 merely recites that the user appliance of claim 1 is mobile. The Examiner then goes on to state: "Furthermore, the mobile device disclosed by *Owa* can receive information from various sources, e.g. satellite and ground-wave broadcasts (television broadcast and/or radio broadcast)." In the Appeal Brief the Appellant admits that a mobile device is illustrated in the *Owa* reference. Appellant points out that the *Owa* reference does not teach or suggest the deficiencies set forth in the *Hendricks* and *Kim* references. The Examiner's statement does not appear to be relevant to the allowance of the claims. Appellant, therefore, respectfully request the Board to reconsider the rejection of claim 8 as well.

Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to each and every claim. Appellant respectfully submits that the application is now in condition for allowance. Should the Board have any questions regarding this matter, they are respectfully directly to contact the undersigned.

Should any fees be associated with this submission, please charge Deposit Account 50-0383.

Respectfully submitted,

Dated: June 27, 2006

By: 
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